

REMARKS

This is in response to the currently outstanding Official Action in the above-identified application.

Claims 1-11 were present in this application as of the time of the issuance of the currently outstanding Official Action. By the foregoing Amendment, Claims 1, 10 and 11 have been amended. Claim 2 has been cancelled, without prejudice, as being redundant in view of the amendment to Claim 1. Applicants do not propose the addition of any New Claims. Accordingly, upon the entry of the foregoing Amendment, Claims 1 and 3-11 as hereinabove amended will constitute the claims under active prosecution in this application.

The claims of this application showing the changes made by this Amendment are shown above as required by the Rules.

More specifically, it is noted that in the currently outstanding FINAL Official Action, the Examiner has:

1. Acknowledged Applicants' claim for foreign priority under 35 USC 119(a)-(d) or (f), and indicated that the required certified copies of the priority document have been received by the United States Patent and Trademark Office.

2. Acknowledged Applicants' Information Disclosure Statement as filed on 23 October 2003 by providing Applicants with a copy of the Form PTO-1449 that accompanied that Statement duly signed, dated and initialed by the Examiner to confirm his consideration of the art disclosed therein, however, Applicants Information Disclosure Statements of 22 January 2004 and 16 March 2004 remain unacknowledged; **acknowledgement of the latter two Information Disclosure Statements in response to this communication is respectfully requested;**
3. Indicated that the drawings as filed on 8 January 2001 are accepted;
4. Rejected Claims 1 and 3-11 under 35 USC 103(a) as being unpatentable over the Kay, et al reference (U.S. Patent 5,444,143) in view of the Nakao et al reference (U.S. Patent No. 6,272,097); and
5. Rejected Claim 2 under 35 USC 103(a) as being unpatentable over the Kay, et al and Nakao et al references reference further in view of the Bernstam reference (U.S. Patent 6,322,868) (the Examiner's reference to a Claussen reference in the text of this rejection is believed to be directed to the Bernstam reference since no Claussen reference appears on the Notice of References Cited.).

Further comment in these Remarks regarding items 1-3 above is not considered to be necessary.

With regard to items 4 and 5, Applicants note that the Examiner has withdrawn his previous rejection under 35 USC 102 (b) in favor of a rejection under 35 USC 103 (a). Further, by the foregoing amendment Claims 1, 10 and 11 have been amended so as to specifically include the feature that the claimed transparent optical compensation film "*comprises a uniaxially-stretched or biaxially-stretched polyolefin-type polymer film*", and Claim 2 has been cancelled, without prejudice, as being redundant in view of the amendment to Claim 1. The foregoing amendment is fully supported in the present specification at page 8, lines 17-29.

Since (i) none of the cited references discloses, teaches or suggests a transparent optical compensation film comprising a uniaxially-stretched or biaxially-stretched polyolefin-type polymer film, and (ii) the Examiner has conceded that none of the references disclose the present invention by virtue of his withdrawal of his previous anticipation rejection, Applicants respectfully submit that Claims 1, 10 and 11 as hereinabove amended, as well as the claims remaining after the foregoing Amendment that depend either directly or indirectly from Claim 1, now are in condition for allowance. More specifically, Applicants respectfully note that by employing a transparent optical compensation film as now specifically claimed, it is possible to convert the incoming laser beam into a circularly polarized light or an elliptically polarized light and also to readily attach the transparent optical film to the optical components of the claimed. Applicants respectfully submit that none of the cited references either alone or in combination with one another disclose, teach or suggest the present invention as now claimed within their "four corners" as would be required to sustain the Examiner's burden of showing a *prima facie* case of the obviousness of the claimed invention. To the extent that the Examiner's currently outstanding rejection is supported, therefore, Applicants respectfully submit that it applies an improper "obvious to try" standard, and should be withdrawn.

The correct standards necessary to support a conclusion (*prima facie* case) of obviousness are as follows:

To establish a *prima facie* case of obviousness under Section 103, Title 35 United States Code (35 US §103), three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicants' disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2D 1438 (Fed. Cir. 1991). (See, Manual of Patent Examining Procedure §2142 (8th Edition), at page 2100-2121, *et seq.*)

Applicants respectfully submit that not only do the references not disclose the transparent optical compensation film now claimed, but also that any suggestion for the use of such a film in the context of the present invention in the present record is to be found only in the present specification, not in the cited art.


Further, as indicated previously during the prosecution of this application, without prejudice to their right to further argue the substance should it become necessary or desirable to do so, Applicants presently rely upon the patentability of the independent claims as support for the patentability of the dependent claims of this application. Accordingly, since Applicants respectfully submit that Claims 1, 10 and 11 as hereinabove amended are patentable for the reasons set forth, it is respectfully submitted that Claims 3-9 also are patentable. Further specific discussion concerning the Examiner's rejections of Claims 3-9, therefore, is not considered to be required in these Remarks.

For each and all of the foregoing reasons, it is respectfully submitted that the claims of this application as they will stand upon the grant of entry to the foregoing Amendment are in condition for allowance. Reconsideration of this application, the entry of the foregoing amendment, and the allowance of Claims 1 and 3-11 as hereinabove amended in response to this communication, therefore, are respectfully requested.

Finally, Applicants believe that additional fees are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. **04-1105**, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

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